



NCTA

NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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August 21, 2003

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 02-52

Dear Ms. Dortch:

On August 21, 2003, Michael S. Schooler (NCTA Deputy General Counsel), Richard L. Cimerman (NCTA Senior Director, Association Affairs), Howard J. Symons (Mintz Levin Cohn Ferris Glovsky & Popeo, PC), and I met with Barbara S. Esbin and Peter Corea of the Commission's Media Bureau. We discussed the issue raised in the above-referenced proceeding by the Department of Justice and the Federal Bureau of Investigation concerning the applicability of the Communications Assistance for Law Enforcement Act ("CALEA") to cable modem service.

In particular, we reiterated the arguments set forth in NCTA's reply comments that CALEA applies only to "telecommunications carriers," that the Commission has made clear that cable modem service is not a telecommunications service, and that cable operators, in providing cable modem service, are not carriers. Therefore, CALEA does not apply to providers of cable modem service.

Very truly yours,

/s/ Neal M. Goldberg

Neal M. Goldberg

cc: Barbara S. Esbin
Peter Corea